

REMARKS

Reconsideration and allowance of the claims are requested in view of the above the amendments and following remarks. Claims 1, 5, 13 and 24 have been amended. Claims 1-3, and 5-6 are pending in the present application, with claims 1, 13 and 24 being independent.

Double Patenting

The Office Action has provisionally rejected claims 1-36 on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims in co-pending US. Patent Applications No. 10/690,422, 10/849,090, and 10/994,010. Applicants intend to file a terminal disclaimer when the double patenting rejection becomes final and when the claims of the present application are allowed.

Rejections Under 35 U.S.C. §103

The Office Action rejects Claims 1-3, 5, 8-10, 13-16, 19-21, 24-27, 30-32, 35 and 36 under 35 U.S.C. § 103(a) as purportedly being unpatentable over U.S. Patent No. 7,346,700 to Gould et al. (hereinafter "*Gould*") in view of U.S. Publication No. 20050015455 to Liu (hereinafter "*Liu*"). Applicant respectfully traverses the rejection.

Gould fails to disclose or suggest a packet sniffer configured to check a fragment offset field and likewise fails to determine the value of a SYN bit in a TCP header, as variously encompassed by the claims. Instead, *Gould* discloses determining only the IP address from an IP packet header. Furthermore, *Gould* makes no mention of a fragment offset field of an IP header or of determining the value of a SYN bit. *Liu* does not cure the deficiencies of *Gould* because *Liu* discloses a SPAM filter that strips the sender's e-mail address, information on the "subject" line field, the time the e-mail was sent, information regarding the number of recipients and information regarding the list of recipients from the input e-mail message and generates a

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check sender request. The check sender request is sent to a data center and used to determine if the e-mail message is spam. (See Figs. 1 and 4, and paragraphs 0063, 0064). However, Applicants note that *Liu* also makes no mention of checking a fragment offset field of an IP header or determining the value of a SYN bit in a TCP header and disregarding the packet if the SYN bit has not been set, as variously encompassed by the claims. Accordingly, neither *Gould* nor *Liu*, separately or in combination teach or suggest, “a plurality of packet sniffers, each of which is located on a unique one of the plurality of servers, such that each of a plurality of packet sniffers are configured to; a) check a fragment offset field of an IP header to ensure the IP header is the first fragment of a packet, b) determine the value of a SYN bit in a TCP header, c) disregarding the packet if the SYN bit has not been set, and d) extract originating IP addresses associated with e-mail messages that are communicated to clients by the server; ” as recited in independent Claim 1 and similar features recited in independent Claims 13 and Claim 24.

Claims 2-3, 5 and 8-10 depend from independent Claim 1. Dependent Claims 2-3, 5 and 8-10 are likewise allowable for at least the same reasons as independent Claim 1, and are variously allowable for the same reasons. Claims 14-16 and 19-21 depend from independent Claim 13. Dependent Claims 14-16 and 19-21 are likewise allowable for at least the same reasons as independent Claim 13, and are variously allowable for the same reasons. Claims 25-27, 30-32 and 35-36 depend from independent Claim 24. Dependent Claims 25-27, 30-32 and 35-36 are likewise allowable for at least the same reasons as independent Claim 24.

The Office Action rejects Claims 6, 7, 17, 18, 33 and 34 as being rejected under 35 USC § 103(a) as being purportedly unpatentable over *Gould* in view of *Liu* in further of U.S. Patent No. 7,117,358 to *Bandini* (hereinafter “*Bandini*”). Applicants respectfully traverse the rejection.

In particular, *Bandini* fails to disclose or suggest a packet sniffer being configured to check a fragment offset field of an IP header and determine the value of a SYN bit in a TCP header and disregarding the packet if the SYN bit has not been set, as variously encompassed by

the present claims. Instead, *Bandini* discloses using sender information, recipient group and/or attachment type of the received e-mail to determine a comparison score. The comparison score is compared with a threshold to determine if the received email message is classified as SPAM. (See Col. 3, lines 36-66). Furthermore, *Bandini* makes no mention of a fragment offset field of an IP header or determining the value of a SYN bit. Accordingly, *Gould, Liu and Bandini* either separately or in combination fail to teach or suggest, “*a plurality of packet sniffers, each of which is located on a unique one of the plurality of servers, such that each of a plurality of packet sniffers are configured to; a) check a fragment offset field of an IP header to ensure the IP header is the first fragment of a packet, b) determine the value of a SYN bit in a TCP header, c) disregarding the packet if the SYN bit has not been set, and d) extract originating IP addresses associated with e-mail messages that are communicated to clients by the server,*” as recited in independent Claims 1, 13 and 24, from which Claims 6, 7, 17, 18, 33 and 34 depend.

The Office Action rejects Claims 11, 12, 22, 23, 28 and 29 as being rejected under 35 USC §103(a) as being purportedly unpatentable over *Gould* in view of *Liu* in further of U.S. Publication No. 20030109248 to *Lewis* (hereinafter “*Lewis*”). Applicants respectfully traverse the rejection.

In particular, *Lewis* fails to disclose or suggest a packet sniffer being configured to check a fragment offset field of an IP header and determine the value of a SYN bit in a TCP header and disregarding the packet if the SYN bit has not been set, as variously encompassed by the present claims. Instead, *Lewis* discloses a mail transfer gateway (MTA) which maintains a list of regular expressions that are commonly found in SPAM messages, as well as, using a checksum or a counter for verifying the text of an e-mail for “spamming” language. See paragraphs 296-297. *Lewis* makes no mention of a fragment offset field of an IP header or determining the value of a SYN bit. Accordingly, the combination of *Gould, Liu and Lewis* either separately or in combination teach or suggest fail to disclose, “*wherein each packet sniffer in the plurality of packet sniffers is configured to check a fragment offset field of an IP header to ensure the IP header is the first fragment of a packet and determine the value of a SYN bit in a TCP header*

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and disregarding the packet if the SYN bit has not been set, and extract from the received packet originating IP addresses associated with e-mail messages that are communicated to the clients over the distributed network,” as recited in independent Claims 1, 13 and 24, from which Claims 11, 12, 22, 23, 28 and 29 depend.

Conclusion

Accordingly, in view of the above amendments and remarks it is submitted that the claims are patentably distinct over the prior art cited and that all the rejections to the claims have been overcome. Based on the foregoing, Applicants respectfully request that the pending claims be allowed, and that a timely Notice of Allowance be issued in this case. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicants' attorney at the telephone number listed below.

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If this response is not considered timely filed and if a request for an extension of time is otherwise absent, applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an enclosed check please charge any deficiency to Deposit Account No. 50-0463.

Respectfully submitted,
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Date: October 17, 2008

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October 17, 2008

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/Noemi Tovar/

Noemi Tovar

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